

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

419C0698

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB200** - 2/9/99

Introduced by: Senators Rounds and Brosz and Representatives Brown (Richard) and Hennies

1 FOR AN ACT ENTITLED, An Act to increase the penalty for possessing certain drugs near  
2 schools and certain other youth-oriented facilities and to repeal certain minimum sentencing  
3 provisions relating thereto.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 22-42-19 be amended to read as follows:

6 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, ~~or 22-42-4, or 22-42-~~  
7 5, or a felony violation of § 22-42-6 or 22-42-7, if such activity has taken place:

8 (1) In, on, or within one thousand feet of real property comprising a public or private  
9 elementary or secondary school or a playground; or

10 (2) In, on, or within five hundred feet of real property comprising a public or private  
11 youth center, public swimming pool, or video arcade facility;

12 is guilty of a Class 4 felony. ~~The sentence imposed for a conviction under this section carries a~~  
13 ~~minimum sentence of imprisonment in the state penitentiary of five years. Any sentence imposed~~  
14 ~~under this section shall be consecutive to any other sentence imposed for the principal felony.~~  
15 ~~The court may not place on probation, suspend the execution of the sentence, or suspend the~~  
16 ~~imposition of the sentence of any person convicted of a violation of this section. However, the~~

1 ~~sentencing court may impose a sentence other than that specified in this section if the court finds~~  
2 ~~that mitigating circumstances exist which require a departure from the mandatory sentence~~  
3 ~~provided for in this section. The court's finding of mitigating circumstances allowed by this~~  
4 ~~section and the factual basis relied upon by the court shall be in writing.~~

5       It is not a defense to the provisions of this section that the defendant did not know the  
6 distance involved. It is not a defense to the provisions of this section that school was not in  
7 session.

1    **BILL HISTORY**

2    1/28/99 First read in Senate and referred to Judiciary. S.J. 234

3    2/1/99 Scheduled for Committee hearing on this date.

4    2/8/99 Scheduled for Committee hearing on this date.

5    2/8/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 366